IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.**6422 OF 2005**

IN

FIRST APPEAL NO.**2615 OF 2005**

Shri Prakash Dnyaneshwar
Nagare and anr. ***... Applicants***

Versus

Shri Maruti Mahadev Dhumal
and ors. ***... Respondents***

Mr. Milind Heblikar i/b. Mr. A.B. Avhad for the applicants
Mr. Hitesh Buch i/b. Amol B. Desai for defendant No.2
Mr. Shailesh K. More for defendant-3 to 4

CORAM : SMT.RANJANA DESAI,
& SMT.V.K. TAHILRAMANI,JJ.
DATED : 11TH OCTOBER,2006

P.C. :-

We have heard learned counsel for the parties.

In this Civil Application, the appellant has prayed that pending the hearing and final disposal of the present first appeal respondent-1 and 2 may be restrained from transferring, alienating their right, title or interest over the suit land to the present respondent-3 and 4 or to any other person and they may be further restrained from creating any third party interest over the suit property. We are informed that

respondent-1 is dead.

Learned counsel for respondent-2 has strenuously opposed the grant of this civil application. He submitted that the suit is filed in the year 1998. The impugned decree is dated 04/04/2005. Though during the pendency of the suit, the respondent had given undertaking in the trial court since the suit is dismissed, now the respondent may be permitted to develop the property.

Our attention is drawn by the learned counsel for the appellant to the finding of the trial court that indenture dated 31/01/1991 whereby the original defendant-1 is said to have agreed to sell suit land to original defendant-4 is a bogus document. He submitted that in view of this finding, the second respondent can not be permitted to transfer his right, title and interest in the suit land to respondent-3 and 4 or any other person.

In our prima facie opinion, in view of the finding recorded by the trial court, respondent-2 must be restrained from transferring, alienating his right, title and interest over the suit land to respondent-3 and 4 who are developers or to any other person. Respondent-2 must also be restrained from creating any third party interest over the suit property during the

pendency of the present first appeal.

Order accordingly.

In the circumstances of the case, appeal is expedited. Liberty to the parties to move the Court for fixing early date of hearing.

Civil application disposed of.

(SMT. RANJANA DESAI,J.)

(SMT. V.K.TAHILRAMANI,J.)